

AMENDED IN ASSEMBLY APRIL 18, 2007

AMENDED IN ASSEMBLY APRIL 9, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

## ASSEMBLY BILL

**No. 558**

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**Introduced by Assembly Member Feuer**

February 21, 2007

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An act to add ~~Section 57021~~ to Article 5 (commencing with Section 25547) to Chapter 6.95 of Division 20 of the Health and Safety Code, relating to toxic chemicals.

### LEGISLATIVE COUNSEL'S DIGEST

AB 558, as amended, Feuer. Toxic chemicals: ~~list~~ use reduction.

(1) Existing law authorizes the California Environmental Protection Agency (Cal-EPA) to request any business to submit the information required to be submitted in the toxic chemical release form pursuant to the federal Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA). Existing law prohibits the Cal-EPA from requiring the form from certain businesses or in an amount lower than the applicable threshold amount specified in EPCRA.

The act would require each large quantity toxics user, as defined, to provide an annual report to the department for each toxic or hazardous substance manufactured, processed, or otherwise used at a facility, in amounts equal to, or exceeding, specified threshold amounts. By July 1, 2010, a large quantity toxics user would also be required to prepare and complete a toxics use reduction plan for each facility for which the toxic user is required to file a report for the previous calendar year. The large quantity toxics user would be required to keep the toxic use reduction plan on the premises of the facility, to make the plan available

to the department upon request, and to update the toxics use reduction plan no less than once every 2 years.

The act would require the department, by October 1, 2008, to prepare and distribute a survey to each business, in certain industries, that would require the business to provide information regarding each facility it owns or operates in the state, the full-time equivalent number of employees at that facility, and whether a listed substance is manufactured, processed, or otherwise used in a facility. A business would be required, by March 1, 2009, to complete the survey and return it to the department, accompanied by a specified fee. The business would be required to certify the completeness and accuracy of the returned survey under penalty of perjury, thereby imposing a state-mandated local program by creating a new crime.

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The department would be required, by July 1, 2009, to determine the total mass of toxic and hazardous substances used in the state in the year 2008 and to adopt and approve, in a public hearing, a statewide toxic and hazardous substance baseline. The department would be required, by January 1, 2011, to adopt regulations to require a toxic user to implement toxic use reduction measures to achieve the maximum technologically feasible and cost-effective reductions in the use of toxic or hazardous substances, to achieve the goal of reducing the statewide toxic and hazardous substance baseline by 25%, by January 1, 2015, and by 50%, by January 1, 2020.

The act would create, in the General Fund, the Toxics Use Reduction Account, which the department would be authorized to expend, upon appropriation by the Legislature. The department would be required to adopt, by January 1, 2010, regulations to impose a toxics use fee on a large quantity toxics user who uses a specified listed toxic or hazardous substance, based on the toxicity and potential harm of that

*toxic or hazardous substance to humans and the environment. The act would require the fees collected to be deposited in a separate subaccount for each hazardous or toxic substance for which the fee is imposed and the department would be authorized to expend the fees deposited in a subaccount for funding technical assistance and research efforts to mitigate the harm caused by that hazardous or toxic substance for which the subaccount is established and providing alternatives to the use of that substance. A large toxics user who receives a notice from the department to pay a toxic use fee would be required to remit the fee to the department within 90 days of receipt of the notice.*

*The act would require the department to provide technical assistance in implementing effective toxics use reduction, and in complying with the requirements of the act and to adopt regulations to implement the act.*

*The department would be required to establish a fee schedule specifying the amount of the fees authorized to be imposed by the act and would require the department to deposit all fees collected in the Toxics Use Reduction Account in the appropriate subaccounts, for expenditure by the department, upon appropriation by the Legislature, to implement the act.*

*(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

~~Existing law authorizes a state agency, as defined, to request a manufacturer, as defined, of a chemical to provide the state agency with specified information regarding the chemical, including an analytical test method for that chemical in a specified matrix, the octanol-water partition coefficient and bioconcentration factor for humans for the chemical, and other information relevant to the fate and transport of the chemical into the environment.~~

~~This bill would require the Department of Toxic Substances Control to adopt a toxic or hazardous substance list consisting of the chemicals identified on the Toxic Chemical List established pursuant to the federal Emergency Planning and Community Right-to-Know Act of 1986, and the substances identified pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and to annually revise those listings.~~

~~The bill would authorize the department to also add or delete any additional substance from the toxic or hazardous substance list, pursuant to a specified procedure.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Article 5 (commencing with Section 25547) is*  
2     *added to Chapter 6.95 of Division 20 of the Health and Safety*  
3     *Code, to read:*

4  
5             *Article 5. California Toxics Use Reduction Act*

6  
7     25547. *This article shall be known and may be cited as the*  
8     *California Toxics Use Reduction Act.*

9     25547.1. *The Legislature finds and declares all of the*  
10    *following:*

11    (a) *Toxic chemicals are inherently dangerous to the health and*  
12    *well-being of all Californians.*

13    (b) *Toxic chemicals entering the environment from chemical*  
14    *releases and leaching from discarded products harm the California*  
15    *environment and diminish productive economic sectors such as*  
16    *agriculture and tourism.*

17    (c) *The Environmental Protection Agency estimates that 600*  
18    *new hazardous waste sites will be added each month to the existing*  
19    *77,000 sites between now and 2033.*

20    (d) *Among children, chemical exposures are estimated to*  
21    *contribute to 100 percent of lead poisoning cases, 10 percent to*  
22    *35 percent of asthma cases, 2 percent to 10 percent of certain*  
23    *cancers, and 5 percent to 20 percent of behavioral disorders.*

24    (e) *Many toxic chemicals accumulate in the tissues of humans*  
25    *and other organisms, putting them at risk of the adverse effects of*  
26    *chronic, long-term exposure such as cancer and reproductive*  
27    *problems.*

28    (f) *The toxics use fee established by this article would not result*  
29    *in the imposition of a tax within the meaning of Article XIII A of*  
30    *the California Constitution because the amount and nature of that*  
31    *fee has a fair and reasonable relationship to the adverse*  
32    *environmental burdens imposed by the use of a toxic or hazardous*

1 *substance in this state and there is a sufficient nexus between the*  
2 *toxic use fee imposed by this article and the use of that fee to*  
3 *support research into mitigating the harmful effects of, and finding*  
4 *alternatives to, that toxic or hazardous substance.*

5 *25547.2. For the purposes of this division, the following terms*  
6 *have the following meanings:*

7 (a) *“Byproduct” means nonproduct outputs of a toxic or*  
8 *hazardous substance generated by a production unit, before*  
9 *handling, transfer, treatment or release. An otherwise used*  
10 *substance is a byproduct when the substance leave a production*  
11 *unit.*

12 (b) *“CERCLA” means the Comprehensive Environmental*  
13 *Response, Compensation, and Liability Act of 1980 (42 U.S.C.*  
14 *Sec. 9601 et seq.).*

15 (c) *“Department” means the Department of Toxic Substances*  
16 *Control.*

17 (d) *“Emission” means a release of a toxic or hazardous*  
18 *substance to the environment or a transfer of a toxic or hazardous*  
19 *substance in waste to an offsite location.*

20 (e) *“EPCRA” means the Emergency Planning and Community*  
21 *Right-to-Know Act of 1986 (42 U.S.C. Sec. 11001 et seq.).*

22 (f) *“Facility” means all buildings, equipment, structures, and*  
23 *other stationary items that are located on a single site or on*  
24 *contiguous or adjacent sites and that are owned or operated by*  
25 *the same person, or by any person who controls, is controlled by,*  
26 *or is under common control with, that person.*

27 (g) *“Intermediate product” means either of the following:*

28 (1) *In chemical manufacturing, a chemical substance, excluding*  
29 *a nonisolated intermediate, that is either of the following:*

30 (A) *Consumed, in whole or in part, in chemical reactions used*  
31 *for the intentional manufacture of another chemical substance or*  
32 *mixture.*

33 (B) *Is intentionally present for the purpose of altering the rate*  
34 *of chemical reactions.*

35 (2) *Except as provided in paragraph (2), a manufactured*  
36 *substance, compound, or product, excluding a nonisolated*  
37 *intermediate, that is any of the following:*

38 (A) *Consumed, in whole or in part, in a chemical or physical*  
39 *process for the intentional manufacture of another product.*

40 (B) *Becomes a component part of another product.*

1 (C) *Is intentionally present for the purpose of aiding the*  
2 *manufacture of another product.*

3 (h) *“Large quantity toxic user” means a toxics user who*  
4 *manufactures, processes, or otherwise uses a toxic or hazardous*  
5 *substance in an amount that is the same as, or greater than, the*  
6 *applicable threshold amount in a calendar year at a facility.*

7 (i) *“Manufacture” means to produce, prepare, import, or*  
8 *compound a toxic or hazardous substance, including, but not*  
9 *limited to, producing a toxic or hazardous substance coincidentally*  
10 *during the manufacture, processing, use, or disposal of another*  
11 *substance or mixture of substances, including a toxic or hazardous*  
12 *substance that is separated from the other substance or mixture*  
13 *of substances as a byproduct, and a toxic or hazardous substance*  
14 *that remains in that other substance or mixture of substances as*  
15 *an impurity.*

16 (j) *“Mixture” means a combination of two or more chemicals,*  
17 *if the combination is not, in whole or in part, the result of a*  
18 *chemical reaction. Mixture includes both of the following:*

19 (1) *A combination that is produced by a chemical reaction but*  
20 *could have been produced without a chemical reaction.*

21 (2) *A combination that consists of a chemical and associated*  
22 *impurities.*

23 (k) *“Multimedia” means having to do with all environmental*  
24 *media including, but not limited to, water, land, air, and*  
25 *workplaces within facilities.*

26 (l) *“Nonisolated intermediate” means an intermediate that is*  
27 *not intentionally removed from the equipment in which it is*  
28 *manufactured, excluding a tank or other vessel or equipment in*  
29 *which the substance or product is stored after manufacture, but*  
30 *including any of the following:*

31 (1) *A reaction vessel in which it is manufactured.*

32 (2) *Equipment that is ancillary to the reaction vessel or similar*  
33 *equipment.*

34 (3) *Equipment through which the intermediate passes during a*  
35 *continuous flow process.*

36 (m) *“Person” means an individual, trust, firm, joint stock*  
37 *company, corporation, partnership, or association engaged in*  
38 *business or in providing services, but does not include the state,*  
39 *and any district, city, county, or political subdivision of the state.*

1     (n) *“Process” means the preparation of a toxic or hazardous*  
2 *substance, after its manufacture, for distribution in commerce*  
3 *under either of the following conditions:*

4     (1) *In the same form or physical state as, or in a different form*  
5 *or physical state from, that in which it was received by the toxics*  
6 *user so preparing that substance.*

7     (2) *As part of an article containing the toxic or hazardous*  
8 *substance.*

9     (o) *“Product” means a product, a family of products, an*  
10 *intermediate product, a family of intermediate products, or a*  
11 *desired result or a family of results.*

12     (p) *“Production unit” means a process, line, method, activity,*  
13 *or technique, or a combination or series thereof, used to produce*  
14 *a product.*

15     (q) *“Section 313 of EPCRA” means Section 11023 of Title 42*  
16 *of the United States Code.*

17     (r) *“Sections 101(14) and 102 of CERCLA” means Sections*  
18 *9606 (14) and 9602 of Title 42 of the United States Code.*

19     (s) *“SIC code” means the identification code assigned to a*  
20 *facility by the United States Department of Commerce.*

21     (t) *“Small quantity toxics user” means a toxics user who is not*  
22 *a large quantity toxics user.*

23     (u) *“Threshold amounts” means a threshold for an amount of*  
24 *a toxic or hazardous substance, as established in Section 25547.4.*

25     (v) *“Toxics user” means a person who owns or operates a*  
26 *facility that manufactures, processes or otherwise uses a toxic or*  
27 *hazardous substance and the facility is classified in SIC codes 10*  
28 *to 14, inclusive, 20 to 40, inclusive, 44 to 51, inclusive, 72, 73, 75,*  
29 *or 76, or the corresponding NAICS code.*

30     (w) *“Toxic” means toxic or hazardous.*

31     (x) (1) *“Toxic or hazardous substance” means a substance in*  
32 *a gaseous, liquid, solid, or other form that is identified on the toxic*  
33 *or hazardous substance list established pursuant to Section*  
34 *25547.3.*

35     (2) *“Toxic or hazardous substance” does not include a*  
36 *substance that meets any of the following conditions:*

37     (A) *Included in an article.*

38     (B) *Used as a structural component of a facility.*

39     (C) *Present in a product used for routine janitorial or facility*  
40 *grounds maintenance.*

1 (D) Present in foods, drugs, cosmetics, or other personal items  
2 used by employees or other persons at a facility.

3 (E) Present in a product used for the purpose of maintaining  
4 motor vehicles operated by a facility.

5 (F) Present in process water or noncontact cooling water as  
6 drawn from the environment or from municipal sources, or present  
7 in air used either as compressed air or as part of combustion.

8 (G) Present in a pesticide or herbicide when used in agricultural  
9 applications.

10 (H) Present in crude, lubricating, or fuel oils or other petroleum  
11 materials being held for direct wholesale or retail sale.

12 (I) Present in crude or fuel oils used in combustion to produce  
13 electricity, steam, or heat, except when production of electricity,  
14 steam, or heat is the primary business of a facility.

15 (y) "Toxic or hazardous substance list" means the list of toxic  
16 or hazardous substances established pursuant to Section 25547.3.

17 (z) "Toxic and hazardous substance baseline" means the total  
18 mass of toxic and hazardous substances used in the calendar year  
19 commencing on January 1, 2008, as established pursuant to Section  
20 25547.9.

21 (aa) "Toxics" means toxic or hazardous substances.

22 (bb) (1) "Toxics use reduction" means in-plant changes in  
23 production processes or raw materials that reduce, avoid, or  
24 eliminate the use of toxic or hazardous substances or generation  
25 of hazardous byproducts per unit of product, so as to reduce the  
26 risks to the health of workers, consumers, or the environment,  
27 without shifting risks between workers, consumers, or parts of the  
28 environment.

29 (2) "Toxics use reduction" does not include, require, or promote  
30 incineration, transfer from one medium of release or discharge to  
31 other media, offsite or out-of-production unit waste recycling, or  
32 such methods as the end-of-pipe treatment of toxic or hazardous  
33 substances as waste.

34 (cc) "Use" includes, but is not limited to, generating, packaging,  
35 treating, storing, emitting, discharging, or disposing of a toxic or  
36 hazardous substance.

37 25547.3. (a) The department shall adopt a toxic or hazardous  
38 substance list pursuant to this section consisting of the chemicals  
39 identified on the Toxic Chemical List established pursuant to

1 *Section 313 of EPCRA and the substances identified pursuant to*  
2 *Sections 101(14) and 102 of CERCLA.*

3 *(1) The department shall annually revise the toxic or hazardous*  
4 *substance list adopted pursuant to this section to add substances*  
5 *consistent with changes in the Toxic Chemical List established*  
6 *pursuant to Section 313 of EPCRA. The department may annually*  
7 *revise the toxic or hazardous substance list to delete substances*  
8 *consistent with changes in that list.*

9 *(2) The department shall annually revise the toxic or hazardous*  
10 *substance list to add substances consistent with changes in the*  
11 *substances identified pursuant to Sections 101(14) and 102 of*  
12 *CERCLA. The department may annually revise the toxic or*  
13 *hazardous substance list to delete substances consistent with any*  
14 *changes in those identified substances.*

15 *(b) In addition to the substances specified in subdivision (a),*  
16 *the department may also add or delete any additional substance*  
17 *from the toxic or hazardous substance list. The department shall*  
18 *not add more than 10 substances in a calendar year to the list,*  
19 *and shall not delete more than 10 substances from the list in a*  
20 *calendar year.*

21 *(1) The department shall provide recommendations proposing*  
22 *the additions or deletions made pursuant to this subdivision.*

23 *(2) A proposed change in the toxic or hazardous substance list*  
24 *made pursuant to this subdivision shall not take effect until the*  
25 *calendar year immediately following the year in which the*  
26 *department makes the change.*

27 *(3) A substance added or deleted by the department pursuant*  
28 *to this subdivision is not subject to the requirements of subdivision*  
29 *(a).*

30 *25547.4. For purposes of this article, the threshold amounts*  
31 *of a toxic or hazardous substance shall be in the following*  
32 *amounts:*

33 *(a) For a toxics user that manufactures or processes a toxic or*  
34 *hazardous substance, the threshold amount for a toxic or hazardous*  
35 *substance shall be 25,000 pounds each year at any one facility.*

36 *(b) For a toxics user that otherwise uses a toxic or hazardous*  
37 *substance, the threshold amount for a toxic or hazardous substance*  
38 *shall be 10,000 pounds each year at any one facility.*

39 *(c) If the administrator of the United States Environmental*  
40 *Protection Agency sets a threshold quantity for facility reporting*

1 *for a toxic or hazardous substance subject to Section 313 of*  
2 *EPCRA that is lower than a corresponding threshold amount*  
3 *specified in subdivision (a) or (b), the corresponding threshold*  
4 *for that substance under this section shall be the same as the*  
5 *federal threshold.*

6 *25547.5. (a) Each large quantity toxics user shall provide an*  
7 *annual report to the department for each toxic or hazardous*  
8 *substance manufactured, processed, or otherwise used at each*  
9 *facility owned or operated by the large quantity toxics user, in*  
10 *amounts equal to, or exceeding, the applicable threshold amounts,*  
11 *in the following manner:*

12 *(1) The reporting shall be expressed in terms of the mass of*  
13 *each toxic or hazardous substance manufactured, processed, or*  
14 *otherwise used.*

15 *(2) In reporting on each toxic or hazardous substance, the large*  
16 *quantity toxics user shall report the total mass of the substance,*  
17 *whether in pure form or contained in a mixture, subject to the*  
18 *establishment of de minimis levels of chemicals in a mixture, as*  
19 *provided in the regulations adopted by the department pursuant*  
20 *to Section 25547.13.*

21 *(3) The report shall contain data accounting for toxic or*  
22 *hazardous substances manufactured, processed, or otherwise used*  
23 *during the preceding calendar year.*

24 *(4) The report shall use reporting forms required by the*  
25 *regulations adopted pursuant to Section 313 of EPCRA. To the*  
26 *extent that information required by this section is not included in*  
27 *the form, that information shall be submitted on supplemental*  
28 *forms established by the department.*

29 *(b) Each report required by this section shall contain all of the*  
30 *following facility information:*

31 *(1) The information required to be submitted under the*  
32 *regulations adopted pursuant to Section 313 of EPCRA.*

33 *(2) The quantity of each toxic or hazardous substance at the*  
34 *facility that is any of the following:*

35 *(A) Manufactured.*

36 *(B) Processed.*

37 *(C) Otherwise used.*

38 *(D) Generated as byproduct prior to any handling, transfer,*  
39 *treatment, or release.*

40 *(E) Shipped as, a product, or in a product, from the facility.*

1     (3) For each production unit at the large quantity toxics user's  
2 facility in which a toxic or hazardous substance is manufactured,  
3 processed, or otherwise used, all of the following information:

4     (A) The information necessary to identify the large quantity  
5 toxics user, the facility, the production unit, and the toxic or  
6 hazardous substance.

7     (B) An indication of whether the toxic or hazardous substance  
8 was used in the production unit in amounts:

9     (i) Greater than zero pounds and less than or equal to 5,000  
10 pounds.

11     (ii) Greater than 5,000 pounds but less than or equal to 10,000  
12 pounds.

13     (iii) Greater than 10,000 pounds but less than or equal to  
14 100,000 pounds.

15     (iv) Greater than 100,000 pounds but less than or equal to  
16 500,000 pounds;

17     (v) Greater than 500,000 pounds.

18     (C) A quantitative or qualitative indication of significant change  
19 in toxics use and byproduct generation, compared with the previous  
20 reporting year, including toxics use reduction techniques employed.

21     (c) The report shall be accompanied by a fee in the amount  
22 determined by the department pursuant to Section 25547.15.

23     (d) For all information submitted under this section, the large  
24 quantity toxics user shall maintain at the facility documentation  
25 that is necessary to substantiate the information submitted,  
26 including, but not limited to, documentation of the quantity of the  
27 toxic or hazardous substance used in each production unit and the  
28 quantity generated as byproduct by each production unit.

29     (e) All of the following are exempt from the reporting  
30 requirements of this section:

31     (1) A facility with fewer than the equivalent of 10 full-time  
32 employees.

33     (2) Activities in laboratories, including quality control  
34 laboratories, to the extent and in the manner those activities are  
35 exempted from reporting in the regulations adopted pursuant to  
36 Section 313 of EPCRA.

37     (f) A facility that claims to be exempt pursuant to subdivision  
38 (e) shall maintain onsite documentation supporting all exemption  
39 claims.

1 (g) *In calculating, measuring, or estimating quantities of a toxic*  
2 *or hazardous substance to be reported under this section, a large*  
3 *quantity toxics user shall report with the maximum accuracy that*  
4 *is feasible and practicable and shall report quantities with*  
5 *accuracy to two significant digits.*

6 (h) *The department shall review each report filed pursuant to*  
7 *this section within 90 days after the report is filed. If the*  
8 *department discovers a deficiency in a report, the department shall*  
9 *allow the large quantity toxics user 90 days from the date of notice*  
10 *of the deficiency to correct the deficiency, unless the department*  
11 *determines that deficiency was intentional.*

12 (i) *A senior management official shall sign each report certifying*  
13 *its accuracy and completeness.*

14 (j) *The department shall make available and, to the extent*  
15 *practicable, shall require reporting and recording of the report*  
16 *data via electronic submittal.*

17 25547.6. (a) (1) *On or before July 1, 2010, a large quantity*  
18 *toxics user shall prepare and complete a toxics use reduction plan*  
19 *for each facility for which the toxic user is required to file a report*  
20 *pursuant to Section 25547.5 for the previous calendar year.*

21 (2) *On or before January 1, 2009, the department shall adopt*  
22 *regulations that specify the criteria for an acceptable toxic use*  
23 *reduction plan. The regulations shall require the toxics use*  
24 *reduction plan to be achieved through any of the following*  
25 *techniques:*

26 (A) *Input substitution, by replacing a toxic or hazardous*  
27 *substance or raw material used in a production unit with a nontoxic*  
28 *or less toxic substance.*

29 (B) *Product reformulation, by substituting, for an existing*  
30 *end-product, a new end-product that is nontoxic or less toxic upon*  
31 *use, release, or disposal.*

32 (C) *Production unit redesign or modification, by developing*  
33 *and using production units of a different design than those*  
34 *currently used.*

35 (D) *Production unit modernization, by upgrading or replacing*  
36 *existing production unit equipment and methods with other*  
37 *equipment and methods based on the same production unit.*

38 (E) *Improved operation and maintenance of production unit*  
39 *equipment and methods, by modifying or adding to existing*  
40 *equipment or methods including, but not limited to, those*

1 *techniques as improved housekeeping practices, system*  
2 *adjustments, product and process inspections, or production unit*  
3 *control equipment or methods.*

4 *(F) Recycling, reuse, or extended use of toxics, by using*  
5 *equipment or methods that become an integral part of the*  
6 *production unit of concern, including, but not limited to, filtration*  
7 *and other closed loop methods.*

8 *(b) The toxics use reduction plan shall include a statement of*  
9 *a facilitywide management policy regarding toxics use reduction,*  
10 *and a description of the scope and objectives of the plan.*

11 *(c) The toxics use reduction plan shall include, for each*  
12 *production unit in which a toxic or hazardous substance is used,*  
13 *all of the following:*

14 *(1) A comprehensive economic and technical evaluation of*  
15 *appropriate technologies, procedures and training programs for*  
16 *potentially achieving toxics use reduction for each toxic or*  
17 *hazardous substance.*

18 *(2) An analysis of current and projected toxics use, byproduct*  
19 *generation, and emissions.*

20 *(3) An evaluation of the types and amounts of toxic or hazardous*  
21 *substances used.*

22 *(4) An identification of each technology, procedure, or training*  
23 *program to be implemented for the purposes of achieving toxics*  
24 *use reduction, the anticipated costs of implementation of each*  
25 *technology, procedure, or training program, and the anticipated*  
26 *savings expected due to each technology, procedure, or training*  
27 *program.*

28 *(5) A schedule for implementation of those technologies,*  
29 *procedures, and training programs.*

30 *25547.7. (a) A large quantity toxics user shall keep the toxic*  
31 *use reduction plan prepared pursuant to Section 25547.6 for a*  
32 *facility on the premises of that facility, and shall make the plan*  
33 *available on to the department upon request.*

34 *(b) A large quantity toxics user shall update the toxics use*  
35 *reduction plan no less than once every two years, on or before by*  
36 *July 1 of the applicable year.*

37 *(c) If the department determines a toxics use reduction plan*  
38 *summary is not in compliance with the requirements of this article,*  
39 *the department shall allow the large quantity toxics user 90 days*  
40 *from the date of the notice of the deficiency to correct the deficiency*

1 unless the department determines that the deficiency was  
2 intentional.

3 25547.8. (a) On or before October 1, 2008, the department  
4 shall prepare and distribute a survey to each business that owns  
5 or operates a facility that is classified in SIC codes 10 through 14,  
6 inclusive, 20 through 40, inclusive, 44 through 51, inclusive, 72,  
7 73, 75, and 76. The survey shall require the business to provide  
8 all of the following information:

9 (1) The business shall identify, for the calendar year  
10 commencing on January 1, 2008, each facility it owns or operates  
11 in the state and the full-time equivalent number of employees at  
12 that facility.

13 (2) For each business identified in the toxic or hazardous  
14 substance list established pursuant to Section 25547.3, whether  
15 the substance is manufactured, processed or otherwise used in a  
16 facility specified in paragraph (1), and if so, whether the quantity  
17 of each use is below 10,000 pounds annually, between 10,000 and  
18 25,000 pounds annually, or over 25,000 pounds annually.

19 (b) On or before March 1, 2009, a business shall complete the  
20 survey and return it to the department, accompanied by the fee  
21 determined by the department pursuant to Section 25547.16. The  
22 completeness and accuracy of the returned survey shall be certified  
23 as complete under penalty of perjury by the business.

24 (c) On or before July 1, 2009, the department shall analyze the  
25 results of the surveys submitted pursuant to this section and shall  
26 use this survey to determine the imposition of the toxics use fees  
27 pursuant to Section 25547.12.

28 25547.9. On or before July 1, 2009, the department shall, after  
29 one or more public workshops, with public notice, and an  
30 opportunity for all interested parties to comment, and utilizing the  
31 information gathered during the surveys conducted pursuant to  
32 Section 25547. 8, do both of the following:

33 (a) Determine the total mass of toxic and hazardous substances  
34 used in the state in the year 2008.

35 (b) Adopt and approve, in a public hearing, a statewide toxic  
36 and hazardous substance baseline, to be used for the purposes of  
37 determining the toxics use reduction required pursuant to Section  
38 25547.11.

1     25547.10. *The statewide toxic and hazardous substance*  
2 *baseline established pursuant to Section 25547.9 shall remain in*  
3 *effect unless otherwise amended or repealed.*

4     (b) *It is the intent of the Legislature that the statewide toxic and*  
5 *hazardous substance baseline continue in existence and be used*  
6 *to maintain and continue toxics use reduction beyond 2020.*

7     25547.11. (a) *On or before January 1, 2011, the department*  
8 *shall adopt regulations to require a toxic user to implement toxic*  
9 *use reduction measures to achieve the maximum technologically*  
10 *feasible and cost-effective reductions in the use of toxic or*  
11 *hazardous substances, in order to meet the following goals:*

12         (1) *On or before January 1, 2015, a total reduction of 25 percent*  
13 *in the statewide toxic and hazardous substance baseline.*

14         (2) *On or before January 1, 2020, a total reduction of 50 percent*  
15 *in the statewide toxic and hazardous substances baseline.*

16     25547.12. (a) *There is hereby created, in the General Fund,*  
17 *the Toxics Use Reduction Account, which may be expended by the*  
18 *department, upon appropriation by the Legislature, for purposes*  
19 *of this article.*

20     (b) *On or before January 1, 2010, the department shall adopt*  
21 *regulations to impose a toxics use fee on a large quantity toxics*  
22 *user who manufactures, processes, or otherwise uses a specified*  
23 *toxic or hazardous substance listed pursuant to Section 25547.3.*

24         (1) *The department shall determine those toxic or hazardous*  
25 *substances for which a fee shall be paid based on the toxicity and*  
26 *potential harm of that toxic or hazardous substance to humans*  
27 *and the environment.*

28         (2) *The department shall set the amount of the fee upon a large*  
29 *quantity toxics user who manufactures, processes, or otherwise*  
30 *uses a hazardous or toxic substance based upon the reasonable*  
31 *cost of funding the technical assistance and research efforts to*  
32 *mitigate the harm caused by that specific hazardous or toxic*  
33 *substance and providing alternatives to the use of that substance.*

34     (c) *The fees collected pursuant to this section shall be deposited*  
35 *in a separate subaccount for each hazardous or toxic substance*  
36 *for which the fee is imposed, which shall be created by the*  
37 *department in the Toxics Use Reduction Account.*

38     (d) *The department may expend the fees deposited in a*  
39 *subaccount established pursuant to this section for funding*  
40 *technical assistance and research efforts to mitigate the harm*

1 caused by that hazardous or toxic substance for which the  
2 subaccount is established and providing alternatives to the use of  
3 that substance.

4 (e) A large toxics user who receives a notice from the  
5 department to pay a fee pursuant to this section shall remit the fee  
6 to the department within 90 days of receipt of the notice.

7 25547.13. (a) The department shall provide technical  
8 assistance in implementing effective toxics use reduction, and in  
9 complying with the requirements of this article and other  
10 applicable environmental and health and safety laws.

11 (b) The department shall utilize its expertise in source reduction  
12 and knowledge of industrial sectors to assist in implementing toxics  
13 use reduction as the preferred means of achieving compliance with  
14 applicable laws and regulations.

15 (c) The department shall promote and disseminate information  
16 concerning toxics use reduction technologies and practices,  
17 including compiling technical documents, guidance and case  
18 studies that utilize the results of its technical assistance efforts  
19 described in subdivision (a).

20 (d) The department shall promote and fund research or pilot  
21 projects to develop and demonstrate innovative technologies for  
22 toxics use reduction. The department shall negotiate with project  
23 partners to establish and maintain public rights to information  
24 regarding those technologies.

25 (e) The department shall engage in an outreach program to  
26 small businesses that are toxics users and are required to submit  
27 reports and plans pursuant to this article, including assisting  
28 first-time filers with reporting requirements. The department may  
29 conduct training and workshops for toxics users to assist them in  
30 meeting their requirements under this article.

31 (f) The department may develop a business and community  
32 recognition program to promote the toxics use reduction  
33 achievements of the state's industry.

34 (g) The department shall adopt regulations to implement this  
35 article.

36 25547.14. (a) All information and records, in document or  
37 electronic format, received by the department in the course of  
38 providing technical assistance to a toxics user shall be kept  
39 confidential and is not considered to be a public record unless one  
40 of the following apply:

1     (1) *The toxics user agrees in writing that this information may*  
2 *be made available by the department.*

3     (2) *The department determines at its discretion, the information*  
4 *pertains to an imminent threat to public health or safety, or to the*  
5 *environment.*

6     (3) *Disclosure by the department is required by law.*

7     (b) *The department may, to the extent that it furthers the public*  
8 *interest in disseminating information about toxics use reduction,*  
9 *make general or generic information available to the public, even*  
10 *if it is derived from a toxics user, when it is determined by the*  
11 *department that the information or records are not related to secret*  
12 *processes, methods of manufacture, or production, or that the*  
13 *information or record would not divulge a trade secret.*

14     25547.15. (a) *The department may establish tuition, or other*  
15 *financial charges for providing services pursuant to this article,*  
16 *and may receive additional funds from grants, gifts, bequests or*  
17 *other contributions, or through contracts.*

18     (b) *The department shall establish a fee schedule specifying the*  
19 *amount of the fees authorized to be imposed pursuant to this article,*  
20 *which shall not exceed the department's reasonable costs of*  
21 *implementing this article.*

22     (c) *The department shall deposit all fees collected pursuant to*  
23 *this article in the appropriate subaccounts in the Toxics Use*  
24 *Reduction Account. The department may expend the fee revenues,*  
25 *upon appropriation by the Legislature, to impend this article.*

26     (d) *The department shall not charge a fee for any onsite*  
27 *technical assistance activity or service provided to the business*  
28 *community.*

29     SEC. 2. *No reimbursement is required by this act pursuant to*  
30 *Section 6 of Article XIII B of the California Constitution because*  
31 *the only costs that may be incurred by a local agency or school*  
32 *district will be incurred because this act creates a new crime or*  
33 *infraction, eliminates a crime or infraction, or changes the penalty*  
34 *for a crime or infraction, within the meaning of Section 17556 of*  
35 *the Government Code, or changes the definition of a crime within*  
36 *the meaning of Section 6 of Article XIII B of the California*  
37 *Constitution.*

38     ~~SECTION 1. Section 57021 is added to the Health and Safety~~  
39 ~~Code, to read:~~

1     ~~57021. (a) For purposes of this section, the following~~  
2     ~~definitions apply:~~

3     ~~(1) “Section 313 of EPCRA” means Section 11023 of Title 42~~  
4     ~~of the United States Code (Emergency Planning And Community~~  
5     ~~Right-To-Know Act of 1986).~~

6     ~~(2) “Sections 101(14) and 102 of CERCLA” means Sections~~  
7     ~~9606(14) and Section 9602 of Title 42 of the United States Code~~  
8     ~~(Comprehensive Environmental Response, Compensation, and~~  
9     ~~Liability Act of 1980).~~

10    ~~(b) The Department of Toxic Substances Control shall adopt a~~  
11    ~~toxic or hazardous substance list pursuant to this section consisting~~  
12    ~~of the chemicals identified on the Toxic Chemical List established~~  
13    ~~pursuant to Section 313 of EPCRA and the substances identified~~  
14    ~~pursuant to Sections 101(14) and 102 of CERCLA.~~

15    ~~(1) The department shall annually revise the toxic or hazardous~~  
16    ~~substance list adopted pursuant to this section to add substances~~  
17    ~~consistent with changes in the Toxic Chemical List established~~  
18    ~~pursuant to Section 313 of EPCRA. The department may annually~~  
19    ~~revise the toxic or hazardous substance list to delete substances~~  
20    ~~consistent with changes in that list.~~

21    ~~(2) The department shall annually revise the toxic or hazardous~~  
22    ~~substance list adopted pursuant to this section to add substances~~  
23    ~~consistent with changes in the substances identified pursuant to~~  
24    ~~Sections 101(14) and 102 of CERCLA. The department may~~  
25    ~~annually revise the toxic or hazardous substance list to delete~~  
26    ~~substances consistent with any changes in those identified~~  
27    ~~substances.~~

28    ~~(c) In addition to the substances required by subdivision (b),~~  
29    ~~the department may also add or delete any additional substance~~  
30    ~~from the toxic or hazardous substance list. The department shall~~  
31    ~~not add more than 10 substances in any one calendar year to the~~  
32    ~~list, and shall not delete more than 10 substances from the list in~~  
33    ~~any one calendar year.~~

34    ~~(1) The department shall provide recommendations proposing~~  
35    ~~any additions or deletions made pursuant to this subdivision.~~

36    ~~(2) A proposed change in the toxic or hazardous substance list~~  
37    ~~made pursuant to this subdivision shall not take effect until the~~  
38    ~~calendar year immediately following the year in which the~~  
39    ~~department makes the change.~~

1     ~~(3) A substance added or deleted by the department pursuant~~  
2     ~~to this subdivision is not subject to the requirements of subdivision~~  
3     ~~(b).~~

4

5

6     CORRECTIONS: \_\_\_\_\_

7     Title—Line 1.

8     Text—Page 16.

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